

Senate Bill No. 945

CHAPTER 689

An act to amend Sections 21083, 21086, and 21151.4 of, and to repeal Section 21087 of, the Public Resources Code, relating to environmental quality.

[Approved by Governor September 22, 2004. Filed with Secretary of State September 22, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 945, Sher. Environmental quality: guidelines.

(1) The existing California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

CEQA requires the Office of Planning and Research (OPR) to prepare and develop proposed guidelines for the implementation of CEQA by public agencies. CEQA requires that the guidelines contain various objectives, criteria, and procedures, as specified. CEQA requires OPR, at least once every 2 years, to review the guidelines and recommend changes or amendments to the Secretary of the Resources Agency. CEQA requires the Secretary of the Resources Agency to certify and adopt guidelines at least once every 2 years.

CEQA requires OPR to recommend proposed changes and the secretary to certify and adopt revisions to the guidelines to reflect changes enacted during the 1993–94 Regular Session of the Legislature within 6 months of the enactment of AB 314 of the 1993–94 Regular Session of the Legislature.

This bill would delete the requirements summarized in the preceding paragraph and would make conforming changes.

CEQA provides that no environmental impact report or negative declaration shall be approved for any project involving the construction or alteration of a facility within $\frac{1}{4}$ of a mile of a school that might reasonably be anticipated to emit hazardous or acutely hazardous air emissions, or that would handle acutely hazardous material or a mixture containing acutely hazardous material in a quantity equal to or greater than a specified quantity prescribed by statute that may pose a health or safety hazard to persons who would attend or would be employed at the school, unless specified conditions occur, including that the school

district has been given written notification of the project not less than 30 days prior to the proposed approval of the environmental impact report or negative declaration.

This bill would, instead, specify that an environmental impact report shall not be certified and a negative declaration shall not be approved for any project involving the construction or alteration of a facility within $\frac{1}{4}$ of a mile of a school that might reasonably be anticipated to emit hazardous air emissions, or that would handle extremely hazardous substances in a quantity equal to or greater than a specified state threshold quantity prescribed by statute that may pose a health or safety hazard to persons who would attend or would be employed at the school, unless specified conditions occur, including that the school district has been given written notification of the project not less than 30 days prior to the proposed certification of the environmental impact report or approval of the negative declaration.

(2) This bill would provide that if AB 3090 is enacted on or before January 1, 2005, and amends Section 21087 of the Public Resources Code, then Section 4 of this bill, which would repeal Section 21087 of the Public Resources Code, would not become operative; and, this bill would not chapter out the amendments to Section 21087 of the Public Resources Code made by AB 3090.

The people of the State of California do enact as follows:

SECTION 1. Section 21083 of the Public Resources Code is amended to read:

21083. (a) The Office of Planning and Research shall prepare and develop proposed guidelines for the implementation of this division by public agencies. The guidelines shall include objectives and criteria for the orderly evaluation of projects and the preparation of environmental impact reports and negative declarations in a manner consistent with this division.

(b) The guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a “significant effect on the environment.” The criteria shall require a finding that a project may have a “significant effect on the environment” if one or more of the following conditions exist:

(1) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.

(2) The possible effects of a project are individually limited but cumulatively considerable. As used in this paragraph, “cumulatively considerable” means that the incremental effects of an individual project



are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(3) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

(c) The guidelines shall include procedures for determining the lead agency pursuant to Section 21165.

(d) The guidelines shall include criteria for public agencies to use in determining when a proposed project is of sufficient statewide, regional, or areawide environmental significance that a draft environmental impact report, a proposed negative declaration, or a proposed mitigated negative declaration shall be submitted to appropriate state agencies, through the State Clearinghouse, for review and comment prior to completion of the environmental impact report, negative declaration, or mitigated negative declaration.

(e) The Office of Planning and Research shall develop and prepare the proposed guidelines as soon as possible and shall transmit them immediately to the Secretary of the Resources Agency. The Secretary of the Resources Agency shall certify and adopt the guidelines pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, which shall become effective upon the filing thereof. However, the guidelines shall not be adopted without compliance with Sections 11346.4, 11346.5, and 11346.8 of the Government Code.

(f) The Office of Planning and Research shall, at least once every two years, review the guidelines adopted pursuant to this section and shall recommend proposed changes or amendments to the Secretary of the Resources Agency. The Secretary of the Resources Agency shall certify and adopt guidelines, and any amendments thereto, at least once every two years, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, which shall become effective upon the filing thereof. However, guidelines may not be adopted or amended without compliance with Sections 11346.4, 11346.5, and 11346.8 of the Government Code.

SEC. 2. Section 21086 of the Public Resources Code is amended to read:

21086. (a) A public agency may, at any time, request the addition or deletion of a class of projects, to the list designated pursuant to Section 21084. That request shall be made in writing to the Office of Planning and Research and shall include information supporting the public agency's position that the class of projects does, or does not, have a significant effect on the environment.



(b) The Office of Planning and Research shall review each request and, as soon as possible, shall submit its recommendation to the Secretary of the Resources Agency. Following the receipt of that recommendation, the Secretary of the Resources Agency may add or delete the class of projects to the list of classes of projects designated pursuant to Section 21084 that are exempt from the requirements of this division.

(c) The addition or deletion of a class of projects, as provided in this section, to the list specified in Section 21084 shall constitute an amendment to the guidelines adopted pursuant to Section 21083 and shall be adopted in the manner prescribed in Sections 21083 and 21084.

SEC. 3. Section 21087 of the Public Resources Code is repealed.

SEC. 5. Section 21151.4 of the Public Resources Code is amended to read:

21151.4. An environmental impact report shall not be certified and a negative declaration shall not be approved for any project involving the construction or alteration of a facility within $\frac{1}{4}$ of a mile of a school that might reasonably be anticipated to emit hazardous air emissions, or that would handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or greater than the state threshold quantity specified pursuant to subdivision (j) of Section 25532 of the Health and Safety Code, that may pose a health or safety hazard to persons who would attend or would be employed at the school, unless both of the following occur:

(a) The lead agency preparing the environmental impact report or negative declaration has consulted with the school district having jurisdiction regarding the potential impact of the project on the school.

(b) The school district has been given written notification of the project not less than 30 days prior to the proposed certification of the environmental impact report or approval of the negative declaration.

SEC. 6. If AB 3090 is enacted on or before January 1, 2005, and amends Section 21087 of the Public Resources Code, then Section 4 of this bill, which would repeal Section 21087 of the Public Resources Code, shall not become operative; and, notwithstanding Section 9605 of the Government Code, this bill shall not chapter out the amendments to Section 21087 of the Public Resources Code made by AB 3090.

